

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Attorney Docket No.: 14221US02

PATENT

In the Application of:)	
)	
Mohan Kalkunte, et al.)	
)	
Serial No.: 10/648,573)	
)	
Filed: August 26, 2003)	
)	<u>Filed electronically on</u>
For: METHOD AND SYSTEM FOR HANDLING)	
TRAFFIC FOR SERVER SYSTEMS)	<u>January 6, 2009</u>
)	
Examiner: Saket K. Daftuar)	
)	
Group Art Unit: 2151)	
)	
Confirmation No.: 4096)	
)	
)	

PETITION TO WITHDRAW HOLDING OF ABANDONMENT AND CONTINGENT
PETITION TO REVIVE UNINTENTIONALLY ABANDONED APPLICATION

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This paper responds to the Notice of Abandonment mailed December 23, 2008 in the above-identified application (the "Application"). The Applicant hereby respectfully requests reconsideration and withdrawal of the holding of abandonment in accordance pursuant to M.P.E.P. §711.03(c)I.B and 37 C.F.R. §1.181(a):

"A petition to revive an abandoned application should not be confused with a petition from an examiner's holding of abandonment. Where an applicant contends that the application is not in fact abandoned (e.g., there is disagreement as to the sufficiency of the reply, or as to controlling dates), a

petition under 37 C.F.R. §1.181(a) requesting withdrawal of the holding of abandonment is the appropriate course of action, and such petition does not require a fee.”

See M.P.E.P. §711.03(c)I.1

Alternatively, and contingent upon a dismissal by the Office of Applicant's present Petition to Withdraw Holding of Abandonment, the Applicant hereby submits a Petition to Revive Unintentionally Abandoned Application under 37 C.F.R. §1.137(b).

Petition to Withdraw Holding of Abandonment

The Notice of Abandonment of December 23, 2008 was issued because of “Applicant's failure to timely file a proper reply to the office letter mailed on 06 June 2008”. The Applicant respectfully petitions for Withdrawal of Holding of Abandonment in view of the following:

Based on a reasonable examination of Assignee's files and records, the person responsible for docketing incoming correspondence from the USPTO is unable to find any record of receipt of the Office action. See Declaration by Sarah Howard, attached.

Therefore, for the reasons set forth above, the Applicant respectfully requests that the holding of Abandonment be WITHDRAWN and further, that the Office action originally mailed June 6, 2008, be re-mailed.

Contingent Petition to Revive Unintentionally Abandoned Application

Contingent on the dismissal of Applicant's present Petition to Withdraw Holding of Abandonment, the Applicant hereby respectfully petitions to revive the Application, and hereby states that the entire delay in filing the reply from the due date until filing of

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Petition filed January 6, 2009

this petition was unintentional. In response to the June 6, 2008 Notice, the Applicant submits herewith an Amended Appeal Brief.

Conclusion

The Applicant respectfully solicits a call to the undersigned at (312) 775-8000 to resolve any issues, should the Commissioner or staff have any questions regarding this submission.

The Applicant believes that no fees are due. However, the Commissioner is hereby authorized to charge any fees associated with this communication, or credit any overpayment, to Deposit Account No. 13-0017, in the name of McAndrews, Held & Malloy, Ltd.

Respectfully submitted,

Date: January 6, 2009

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